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STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
ROBERT W. SWANSON, ACTING DIRECTOR

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BILL ANALYSIS

BILL NUMBER: Senate Bills 848 (S-2) and 849 (S-2)

TOPIC: Wellness Plan Rebates

SPONSOR: Senator Thomas George

CO-SPONSORS: Sen. Johnson, Toy, Cropsey, Jelinek, Kuipers, McManus, Hardiman, Van Woerkom, Gilbert, Brown, Cassis, Patterson, Birkholz, Sikkema, Sanborn, Bishop, Stamas, Allen, Goschka, Garcia and Hammerstrom

COMMITTEE: House Committee on Health Policy

Analysis Done: May 15, 2006

POSITION

The Office of Financial and Insurance Services is neutral on this legislation.

PROBLEM/BACKGROUND

These bills are part of a larger package of wellness legislation that have been introduced that address the rising cost of health care by encouraging employers, employees, and individuals to live healthier lifestyles and encourage health plans to give those employers and individuals incentives through premium discounts to choose those lifestyles. As health care costs continue to rise, a variety of proposals are being crafted that attempt to mitigate those costs.

DESCRIPTION OF BILLS

Senate bill 848 amends section 3426 of the Insurance Code and gives health insurance carriers and health maintenance organizations the ability to offer a rebate, discount, or reduced copayments, coinsurance, deductibles, or a combination of these incentives not to exceed 10 percent of the paid premium, if a group or individual insured or enrollee has enrolled in any health wellness, maintenance, or improvement program offered by the employer. Participants in the wellness program must provide evidence of maintenance or improvement of the insureds' or enrollees' health status to obtain the discount at the end of the year. The standards for evidence will be agreed upon

between the insured or enrollee and the health plan at the beginning of the wellness program.

Each employer and each individual must be offered all wellness coverage plans that the insurer or health maintenance organization markets to employers and individuals in the state.

Senate bill 849 amends section 414b of the Nonprofit Health Care Corporation Reform Act, allowing the health care corporation to establish the same rebate program for their members as allowed for insureds and enrollees under SB 848.

SUMMARY OF ARGUMENTS

Pro

If health plans can provide cost incentives to employers, employees, and individuals to pursue healthier lifestyles, they should be encouraged to do so. When people make healthier lifestyle choices, for whatever reason, the claim costs to the health care system should decrease and therefore, the costs to the health plans that pay those bills should decrease. The savings to the health plans should reasonably be passed on to the employers, employees, and individuals who pay the premiums.

Encouraging healthy lifestyles for employees would be a win-win proposition for all parties involved with a health benefit contract. Presumably if employees willingly participate in the wellness programs, they will live longer and have a better quality of life. Employers will receive the benefit of having healthier employees who are more productive on the job and who take fewer sick days. Health plans will be able to realize savings in claims costs and pass those savings on to the parties that pay the premiums.

As the proposed legislation is now written, health plans and employers have discretion to develop wellness plans that will fit their needs to save money and improve the health of employees and individuals. Nothing in the language puts in place requirements that would cause either party to violate the HIPAA regulations. All parties in the wellness programs will need to be aware of the HIPAA regulations and implement them as allowed by this law. It is clear that the wellness programs are meant to help employees and individuals live healthier lifestyles, not just lower the premiums for those who pay them.

The 10 percent cap on the amount of rebate or discount that is designated in the legislation alleviates concerns that health plans will use the wellness programs as a marketing tool without any real impact on the claims. While the 10 percent cap provides a real incentive, it is reasonable in its assessment of the potential influence a wellness program would have on actual claims costs and actual savings to the health plan.

Con

Health plans and employers would have to develop a wellness program that would assure the administrative costs to maintain and monitor the program are not in excess of any costs saved through better health outcomes. A concern exists that health plans will eventually have to increase premiums to allow them to give the promised rewards in the form of rebates or discounts and still maintain their financial reliability.

In order to encourage employees to participate in the employer group wellness plan, it would seem reasonable that some specific incentive be offered to the employee. As the proposal is now written, there are no direct benefits to the employee other than to help their employer save health care premium costs. Direct incentives for employees should be built into the wellness programs.

The bill does not specifically address how the wellness programs developed between the employer and the health plans will meet the requirements of the proposed HIPAA regulations for bona fide wellness programs. The proposed HIPAA regulations should be included in any health carrier's bona fide wellness plan in order to avoid discrimination and privacy violations.

A real concern exists for any wellness plan that would require an employee to disclose privileged, personal health information to their employer, especially if the employee did not receive any direct benefit from the plan. Such required disclosure could very well violate Department of Labor, ERISA, and Michigan labor laws.

FISCAL/ECONOMIC IMPACT

OFIS has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Services:

Budgetary: If the wellness programs become widespread, additional resources (both material and human) may be needed to oversee and regulate the plans.

Revenue:

Comments:

(b) To the Department of Labor and Economic Growth:

Budgetary: None

Revenue:

Comments:

(c) To the State of Michigan:

Budgetary: None

Revenue:

Comments:

(d) To Local Governments within this State:

Comments: None

OTHER STATE DEPARTMENTS

None known.

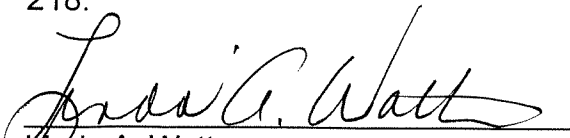
ANY OTHER PERTINENT INFORMATION

HIPAA has produced proposed regulations regarding the use of bona fide wellness plans.

Both bills were amended on the Senate floor to state that insurers, health maintenance organizations and health care corporations were not required to continue offering health behavior wellness, maintenance, or improvement programs, or incentives associated with the programs. Senate Bill 848 passed the Senate on May 9, 2006, with all 38 senators voting in favor of the bill. Senate Bill 849 passed the Senate on May 9, 2006, with a vote of 36-yeas and 2-nays.

ADMINISTRATIVE RULES IMPACT

The OFIS has general rulemaking authority under the Insurance Code of 1956, 1956 PA 218.


Linda A. Watters
Commissioner

5-22-06

Date